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# United States Department of Agriculture

## PRODUCTION AND MARKETING ADMINISTRATION

### SERVICE AND REGULATORY ANNOUNCEMENTS NO. 153 REVISED<sup>1</sup>

## REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE UNITED STATES COTTON STANDARDS ACT

(Title 7 Ch. I, Pt. 28 of the Code of Federal Regulations, 1949 Edition)

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### Definitions

SEC. 28.1 *Meaning of words.* Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 28.2 *Terms defined.* As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U. S. C. 51-65), with such amendments as may be made from time to time.

(b) *Exchange.* Exchange, board of trade, association, or similar institution or place of business, recognized as such by the Secretary.

(c) *Custodian.* Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(d) *Person.* Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(e) *Owner.* Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(f) *Administrator.* The Administrator of the Production and Marketing Administration (hereinafter referred to as "the Administration") of the Department of Agriculture or any officer or employee of the Administration to whom the Administrator has heretofore lawfully delegated, or to whom the Administrator may hereafter lawfully delegate, the authority to act in his stead.

(g) *Exchange inspection agency.* The inspection agency of any exchange which may have an organized inspection agency recognized as such by the Administrator.

(h) *Board.* Board of cotton examiners.

(i) *Official cotton standards.* Official cotton standards of the United States for the grade of American Upland cotton and for American Egyptian cotton, and for length of staple, adopted by or established pursuant to the act, or any change or replacement thereof.

(j) *Universal standards.* The official cotton standards of the United States for the grade of American Upland cotton.

(k) *Upland cotton.* All cotton grown anywhere within the continental United States, including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding the Sea Island and American Egyptian varieties.

<sup>1</sup> This is a revision of S.R.A.-B.A.E. 153, which it supersedes. The work to which it relates is now a part of the Production and Marketing Administration.

(l) *Supervisor of inspection.* An officer of the Department of Agriculture designated as such by the Administrator or by the chairman of a board of examiners.

(m) *Secretary.* The Secretary of Agriculture of the United States.

(n) *Regulations.* Regulations made under the act by the Secretary.

(o) *License.* A license issued under the act by the Secretary.

(p) *Licensed classifier.* A person licensed under the act by the Secretary to classify cotton according to the official cotton standards of the United States and to certificate the classification of the same.

(q) *Licensed sampler.* A person licensed by the Secretary to sample cotton.

(r) *State.* A State, Territory, or district of the United States.

(s) *Cotton examiner.* An officer of the Department of Agriculture so designated by the Administrator.

(t) *Dispute.* A disagreement between the parties as to the true classification of any cotton not tendered for delivery on a contract under the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. Chapter 14) or as to its relative classification when compared with a type or other samples.

(u) *Party.* A party to a dispute.

(v) *Cotton.* The word "cotton" as used in the act means cotton of any variety produced within the continental United States, including linters. In this subpart, for administrative convenience, the word "cotton" is used to signify vegetable hair removed from cottonseed in the usual process of ginning, and the word "linters" as defined in the following paragraph.

(w) *Linters.* Vegetable hair removed from cottonseed subsequent to the usual process of ginning.

### Administrative and General

SEC. 28.3 *Administrator.* The Administrator is charged with the supervision on behalf of the United States Department of Agriculture of the performance of all duties arising in the administration of the act.

SEC. 28.4 *Boards of cotton examiners.* Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. A board of supervising cotton examiners shall be constituted for duty as assigned; and an Appeal Board of Review Examiners shall be constituted to which may be referred requests for the review of the classification and/or comparison of cotton performed by other boards appointed in accordance with this section. The Appeal Board of Review Examiners shall be located at Washington, D. C., except when the Administrator shall require that committees of the board meet to perform its functions elsewhere. The members of all boards and the chairman of each shall be designated for the purpose by the Administrator.

SEC. 28.5 *Secretary, board of cotton examiners.* The Administrator shall designate a secretary for each board. It shall be the duty of the secretary of the board to receive all correspondence relating to the classification of cotton under the act and to see that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the members of the board, who are detailed to classify or compare the cotton, until after the samples are classified.

SEC. 28.6 *Acting secretary of board.* In the event of the absence or incapacity of the secretary of the board, the chairman of the board shall designate temporarily an acting secretary of the board in his stead. Any person thus designated shall be thereby disqualified to act as a member of the board in the classification of cotton during the term of such temporary appointment.

SEC. 28.7 *Supervisor of cotton inspection.* The Administrator whenever he deems necessary may designate an officer of the Department of Agriculture as supervisor of cotton inspection, who shall supervise the inspection and sampling of cotton and perform such other duties as may be required of him in administering the act and this subpart. The secretary of the board may or may not be a supervisor of inspection.

SEC. 28.8 *Chairman of board; responsibility.* Subject to this subpart and the instruction of the Administrator, the chairman of each board shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

SEC. 28.9 *Classification of cotton; determination.* For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department of Agriculture shall be determined or made only by cotton



examiners properly qualified and designated as such by the Administrator, and the certificate of a board of cotton examiners with respect to any cotton shall be deemed to be the certificate of the Department of Agriculture.

SEC. 28.10 *Inspection; sampling; classification.* The inspection, sampling, and classification of cotton in the United States pursuant to the act shall be performed as prescribed in sections 28.12–28.135, and the inspection, sampling, and classification of linters as prescribed in sections 28.136–28.146.

SEC. 28.11 *Cotton examiners on foreign exchanges.* Whenever any association or exchange in any other country than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Administrator may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in sections 28.147, 28.148.

### Requests for Classification and Comparison

SEC. 28.12 *Classification and comparison; requests.* For each lot or mark of cotton which the applicant desires classified or compared separately he shall make a separate written request specifying which one of the following three forms of service is desired:

(a) *Form A determination.* The informal classification or comparison of samples submitted for the purpose. Such informal classification or comparison shall be evidenced by a Form A memorandum.

(b) *Form B determination.* The formal classification or comparison, or both, of samples submitted by mutual agreement of two or more parties to a dispute. The classification or comparison in such cases shall be evidenced by a Form B certificate which shall be subject to appeal as provided in section 28.61.

(c) *Form C determination.* The formal classification of bales of cotton, to be sampled under the supervision of a supervisor of inspection. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in sections 28.58–28.69.

SEC. 28.13 *Form of request.* Requests for classification or comparison made in accordance with section 28.12 shall contain such information as the Administrator may require.

SEC. 28.14 *Disputes; nature of stipulation required.* (a) In cases of dispute, in which Form B determinations are requested, it may be required that the request be accompanied by a stipulation signed by the parties or by their agents and dated, and containing the following information:

(1) The names and post-office addresses of the parties, or their agents, if any, signing the stipulation.

(2) The exchange, association, or other body, if any, under whose rules the contract was made.

(3) The interests of the parties in such contract.

(4) The respective claims of each party as to the quality or grade or length of staple of each bale or other package of cotton involved in the dispute, and the facts material thereto.

(5) The marks identifying each bale or other package of cotton in dispute.

(6) The place or places where it is located.

(7) That the parties have agreed upon samples to be submitted.

(b) In the adjustment of disputes, or when otherwise necessary, the Administration shall observe the definitions of terms laid down in the rules or regulations of the exchange or other body under which the contract was made, except that when two grades are used to describe a single lot of cotton without reference to the proportions of each, unless a different meaning be evident from the language of the contract or the rules under which it was made, the description shall be construed to mean that no bale in the lot is intended to be below the lower or above the higher grade of the description. The same principle shall be observed when two staple lengths not expressed in millimeters are similarly employed in a single description.

(c) No dispute under this section shall be entertained with respect to cotton tendered for delivery on a contract under the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. Chapter 14), or with respect to which a Form C certificate has previously been issued.

SEC. 28.15 *Filing of requests for classification or comparison.* All requests for classification or comparison in the United States leading to Form A memoranda and Form B certificates shall be filed with the secretary of the board which serves the territory in which the cotton is located: *Provided*, That such requests may, where desired, be filed directly with the Appeal Board of Review Examiners located at Washington, D. C., or with any committee of such Appeal Board. Samples which are submitted to any board or to the aforesaid Appeal Board of Review Examiners for classification or comparison may be referred by such board or Appeal Board to another board for classification or comparison.

SEC. 28.16 *Same.* Requests for classification leading to Form C certificates covering the grade and the staple length of the cotton involved shall be filed with the secretary of the board of examiners at the place where the cotton is located or, in case there is no board at that point, with the supervisor of inspection.

SEC. 28.17 *Limitation on filing of request.* No request shall be filed for a determination of the classification of any cotton described by terms of which the word "millimeter" is a part.

SEC. 28.18 *One request only for classification.* Not more than one request for the informal classification of the same cotton shall be filed unless each subsequent request shall be accompanied by redrawn samples, and the chairman of the board may require that any Form A memoranda previously issued with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

SEC. 28.19 *Withdrawal or rejection of classification request.* Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in sections 28.118–28.135. Any classification request may be rejected by the chairman of the board or the Administrator for non-compliance with the act or this subpart.

### Submission and Disposition of Samples for Form A and Form B Determinations

SEC. 28.20 *Submission of samples.* Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or by his agent.

SEC. 28.21 *Preparation of samples.* All such samples shall be inclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples contained in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board or of the Administrator. Each sample of sandy or dusty cotton shall be inclosed in a separate wrapper.

SEC. 28.22 *Lost or damaged samples.* If any samples are lost, damaged, or mutilated, or are received in packages arriving in a condition which may be considered to alter the representative character of the sample, the secretary of the board shall note all the facts, including the number of missing samples and the tag numbers identifying the samples received, and shall so inform the person who made the request. The classification or comparison of such samples shall be deferred until the person making the request shall advise in writing whether he wishes the classification or comparison made at once or delayed until he substitutes other samples. If the samples are submitted for purposes of adjusting a dispute, both parties shall be given identical information as to the condition in which the samples arrived, and the approval of both parties of the use of the damaged samples or of the redrawn samples shall be required before the classification shall proceed.

SEC. 28.23 *Disposal of samples.* When so stipulated in the classification request samples submitted for informal classification or comparison shall be returned to the person making the request, at his expense, at the time the certificate is issued or when the request for classification is withdrawn or rejected: *Provided*, That samples submitted for Form A classification as a basis for purchase or sale may, in the discretion of the Board, be held for a period of 60 days, after which they may be returned to the person making the request, if desired by him. Samples not returned shall be disposed of in accordance with section 28.25.



SEC. 28.24 *Custody of samples.* Samples of cotton submitted for classification and/or comparison in the adjustment of a dispute shall remain in the possession of the secretary of the board to which they are delivered until the expiration of the time permitted for requesting a review as provided in sections 28.58–28.69, or, if a review is requested, until the classification has been reviewed. If so requested by the party who submitted the samples for original classification, the samples shall be returned to him or to any person whom he may designate at the end of such time or after such review, as the case may be; otherwise, they shall be disposed of as provided in section 28.25.

SEC. 28.25 *Samples not removed, property of Department of Agriculture.* Samples not removed in accordance with this subpart and loose cotton separated from samples in the handling and classification thereof shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

### Submission of Cotton, Supervision and Sampling in Form C Determinations

SEC. 28.26 *Cotton; method of submitting to Secretary.* All bales of cotton submitted to the Secretary or to his duly authorized representatives for the purpose of classification or certification, in accordance with section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), shall, except as otherwise provided in this subpart for the informal classification of samples or the adjustment of disputes, be submitted in accordance with sections 28.26–28.37.

SEC. 28.27 *Storage of cotton submitted; statement of withdrawal.* All cotton submitted in accordance with sections 28.26–28.37 shall be stored in storage places approved by the Administrator and shall be sampled by or under the direction of an exchange inspection agency, subject to the provisions of sections 28.28–28.33. The exchange inspection agency shall furnish to the board which classified such cotton, on the first business day of each week, a written statement of all certificated cotton withdrawn from storage, or the lot number of cotton the identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency, during the next preceding week. Such statement shall show each lot number, and if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

SEC. 28.28 *Supervision of inspection and sampling.* The inspection and sampling of cotton of which classification is desired shall be subject to the supervision and in accordance with the instructions of a supervisor of cotton inspection.

SEC. 28.29 *Cotton to be made available to supervisor.* The owner or custodian of the cotton shall cause the cotton to be made available to such supervisor for examination as may be necessary for the purposes of its classification, and shall take such steps as may be necessary to secure its proper inspection and sampling and the proper preparation and delivery of representative samples thereof at the place designated therefor, in accordance with this subpart, without expense to the Department of Agriculture.

SEC. 28.30 *Employees in inspection; sampling.* No person shall, after notice by the Administrator, be employed in any way in connection with any phase of the inspection and sampling of cotton, or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Administrator.

SEC. 28.31 *Samples; drawing; weight; representative.* One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 3 ounces. The head of the bale shall be properly inspected, and any conditions not fully indicated by the samples shall be specified by the inspector or the sampler of the cotton in a written memorandum to the board, which shall accompany the samples. Each such sample shall be considered representative of the bale for a period not exceeding 2 years from the date of the issuance of a Form C certificate therefor under sections 28.51–28.57.

SEC. 28.32 *Additional samples.* In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner or custodian of the cotton.

SEC. 28.33 *Handling of samples.* All persons in any way connected with the inspection and sampling and handling of samples of cotton for the purpose of classification, pursuant to this subpart, shall carefully handle them in such manner as not to cause loss of sand therefrom or any change otherwise in their representative character.

SEC. 28.34 *Rejection of samples; new samples.* Any sample or set of samples which does not meet the requirements of this subpart or which does not correctly represent the bale or bales from which drawn may be rejected by a supervisor of cotton inspection or the secretary or chairman of the board. Whenever the supervisor of cotton inspection or the chairman of the board shall find it necessary, in order to determine the true classification of any bale, such bale shall be reinspected and, if necessary, resampled, and the new samples shall be delivered at the place designated therefor in accordance with this subpart.

SEC. 28.35 *Removal of samples.* The samples may be removed by the holder of the certificate covering the same (a) after 90 days from the date of withdrawal of the cotton from supervision, or (b) after the surrender to the board for cancellation of the certificate covering the cotton represented thereby without the issuance of a new certificate in lieu thereof, or (c) after 2 years from the date of the issuance of the Form C certificate therefor. In either case, if the holder of the certificate desires to remove the samples, he must do so within 7 days after the date on which he becomes entitled to remove them in accordance with this section.

SEC. 28.36 *Removal of samples after withdrawal of classification request.* If a classification request shall be withdrawn prior to the classification of the cotton pursuant thereto, the applicant may, within 7 days after the date of such withdrawal, remove any samples of the cotton involved then in the possession of the Department of Agriculture.

SEC. 28.37 *Disposition of samples not removed.* Samples not removed in accordance with sections 28.35-28.36 shall be disposed of in accordance with section 28.25.

### Classification

SEC. 28.38 *Method of classification.* The classification of all cotton samples shall be according to the universal standards or other official cotton standards of the United States in effect at the time.

SEC. 28.39 *Order of classification.* All cotton for which requests for classification or comparison shall be pending shall be classified, as far as practicable, in the order in which proper samples thereof, ready for such classification or comparison, shall have been delivered to the board whose duties include the examination thereof, except as otherwise provided in this subpart or when the chairman of the board or the Administrator shall find that an emergency exists and shall order otherwise, but the informal classification of samples shall yield precedence to the classification and certification of cotton in accordance with sections 28.26-28.37, or with the adjustment of disputes in Form B determinations.

SEC. 28.40 *Exposing of samples for classification.* Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

SEC. 28.41 *Classification dependent upon light, etc.* Such classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

SEC. 28.42 *Lower grade (of two samples) to determine classification.* If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

SEC. 28.43 *Cotton reduced in value; effect.* If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value shall be determined and stated.



SEC. 28.44 *Terms defined; cotton classification.* For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has had the strength of fiber, as ordinarily found in cotton, destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(c) *Gin-cut cotton.* Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of a part of a larger bale or of two or more smaller bales or parts of bales.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton; (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior; (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination; or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the samples drawn therefrom, (1) shows a difference of more than two grades, if of the same color; or (2) if of the same grade but of different color, shows a difference of more than two color gradations; or (3) shows a difference of two or more grades and two or more color gradations; or (4) shows a difference in length of staple exceeding three thirty-seconds of an inch.

(h) *Water-packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

### Sample or Type Comparison

SEC. 28.45 *Procedure.* When a comparison of cotton samples with other actual samples or with a type without a statement of the true classification is requested, the procedure and methods shall be as outlined in sections 28.45-28.50.

SEC. 28.46 *Scope of comparison.* Such comparison may be requested in respect to grade and/or staple or any physical characteristics of the cotton involved, including any of the component qualities embodied in the grade, but no comparison shall be made except in respect to the qualities specified in the request.

SEC. 28.47 *Submitting samples and types; how.* The methods of submitting samples and types to the Department of Agriculture for examination and comparison shall be as prescribed in sections 28.20-28.25.

SEC. 28.48 *Statement of classification in comparisons.* In the comparison of cotton samples with other actual samples or with a type in respect to grade and/or staple, the true classification of such samples and types as to grade and/or staple length, in accordance with the official cotton standards of the United States, shall, where necessary in the opinion of the board, be determined and stated, and when appropriate the opinion or decision of the board shall be stated in further detail in accordance with sections 28.49, 28.50.

SEC. 28.49 *Statement of findings of board in comparisons.* (a) In the examination and comparison of samples with other samples and/or types of uniform grade, staple length, and/or other quality, the opinion or decision of the board shall be expressed as described in this section, as follows:

(b) For each bale of the cotton involved of which the grade is equal to the type or corresponding sample, by the words "grade equal."

(c) For each bale of the cotton involved of which the staple is equal to the type or corresponding sample, by the words "staple equal."

(d) For each bale of the cotton involved which is equal to the type or corresponding sample in any other respect in which an opinion is requested, by the

word "equal", together with other words necessary to indicate the nature of the equality.

(e) For each bale of the cotton involved of which the grade is below or above that of the type or corresponding sample, by the words "grade deficient" or "grade better", as the case may be, together with a statement of the amount of deficiency or superiority as measured by the grades of the universal standards.

(f) For each bale of the cotton involved of which the length of staple is less or more than that of the type or corresponding samples, by the words "staple deficient" or "staple better", as the case may be, together with a statement of the amount of deficiency or excess length as measured in fractions of an inch.

(g) For each bale of the cotton involved which is not equal to or which is better than the type or corresponding sample in any other respect or in respect to any of the component qualities embodied in the grade, by the word "deficient" or "better", together with other necessary words indicating the nature of the deficiency or superiority.

SEC. 28.50 *Comparison of samples.* In the examination and comparison of samples with a type in which more than one grade, staple length, or quality of another kind are represented, the opinion or decision of the board shall be expressed as prescribed in this section as follows:

(a) If the proportions of each grade are the same in the samples as in the type, the cotton shall be said to be "equal in grade."

(b) If the proportions of each staple length are the same in the samples as in the type, the cotton shall be said to be "equal in staple length."

(c) If the proportions of the other qualities in question are the same in the samples as in the type, the cotton shall be said to be "equal" in respect to the qualities in question.

(d) If the proportions of any grade, staple length, and/or other qualities, including the component qualities of the grade, are more or less than the corresponding proportion in the type, the board shall indicate the bales which are better than the type, those equal to the type, and those which are deficient, and the amount of any superiority or deficiency in each case as measured by the official standards of the United States.

### Certificates and Memoranda

SEC. 28.51 *Issuance of certificate.* As soon as practicable after the classification of cotton has been completed by a board of cotton examiners, there shall be issued a cotton class certificate of the appropriate kind showing the results of such classification.

SEC. 28.52 *Form A memorandum.* When an informal classification has been made of any samples submitted for the purpose, the results of such classification may be stated in a Form A memorandum. Such memorandum shall not be deemed to be a final certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

SEC. 28.53 *Form B certificate.* When the samples of any cotton involved in a dispute shall, by mutual agreement of the parties to such dispute or by their duly authorized agents, have been referred to a board for classification or for comparison with a type or with other samples, the chairman of the board shall issue an adjustment certificate known as a Form B certificate. Each Form B certificate shall show the true classification as determined in accordance with sections 28.38-28.44, or the results of such comparison made as provided in sections 28.45-28.50, in respect to the qualities in dispute of the cotton involved. Such certificate, when issued in the first instance by the Appeal Board of Review Examiners, or in other cases when it has been once reviewed under sections 28.58-28.69, shall be deemed as between the parties to the dispute a final certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), but no Form B certificate issued in the United States shall be deemed to be final in any respect when inconsistent with a valid Form C certificate covering the same cotton which has been issued under section 28.54. The original Form B certificate shall be furnished to the party submitting the samples, and an exact copy of the certificate shall be furnished to the other party to the dispute or to his agent at the address given in the stipulation.



SEC. 28.54 *Form C certificate.* When cotton has been submitted for sampling under supervision and classification as provided in sections 28.26–28.37, there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such certificate, when it has been once reviewed in accordance with sections 28.58–28.69, shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), in all cases except when superseded by a certificate or award made as provided in sections 28.147–28.148.

SEC. 28.55 *New certificate; issuance.* Upon the written request of a holder of a cotton class certificate issued under this subpart, a new certificate shall be issued, without the reclassification of the cotton, to take the place of the former certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder: *Provided*, That in any case where a part of a lot of cotton for which Form C certificate has been issued is removed from the certificated stock of any market the chairman of the board of cotton examiners or the supervisor of inspection may upon request cancel from said certificate the bales so removed. In any case where a new certificate is requested in accordance with this section the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number and the date of its issuance and the date of original certification and shall otherwise comply with this subpart.

SEC. 28.56 *Lost certificate may be replaced by duplicate.* Upon the written request of the last holder of a valid Form C certificate or of a Form B certificate and a showing to the satisfaction of the chairman of the board which issued such certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

SEC. 28.57 *Surrender of certificate.* For good cause any certificate issued under sections 28.51–28.56 shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Administrator, and a new certificate complying with this subpart may be issued in substitution therefor. If such certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

## Reviews

SEC. 28.58 *Provisions for reviews.* Reviews of classifications or comparisons represented by Form A memoranda shall be governed by sections 28.59, 28.64, and 28.69. Reviews of classifications or comparisons represented by Form B or Form C certificates shall be governed by sections 28.60 to 28.67 inclusive, and section 28.69.

SEC. 28.59 *Form A memorandum; review.* A review of any Form A determination may be requested by the owner or custodian of the cotton from which the sample was drawn within a reasonable time after the issuance of the Form A memorandum. Such request may be filed with, and the review made by, the board which issued such memorandum or the Appeal Board of Review Examiners. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the aforesaid board or Appeal Board. As evidence of any review determination, a Form A memorandum appropriately marked to indicate that it represents a review determination shall be issued in each instance to the applicant requesting the review, and such applicant may be required by the board or the Appeal Board issuing such review determination to surrender the original Form A memorandum.

SEC. 28.60 *Form C certificate; review.* The holder of a valid Form C certificate may have a review of the classification of the cotton covered thereby by filing written application for review within 1 year following the date shown in such certificate, provided the samples of the cotton shall not have been withdrawn. Each such application shall be filed with the secretary of the board which issued such Form C certificate.

SEC. 28.61 *Form B certificate; review.* (a) Either party to a dispute in which the samples involved have been submitted for examination and/or comparison

may apply for the review of classification and/or comparison represented in a Form B certificate, except in those cases where the Form B certificate was issued by the Appeal Board of Review Examiners in the first instance. Each such application shall be filed with the secretary of the board which made the original classification and/or comparison and shall be accompanied by a remittance of the costs in the proper form and amount as provided in sections 28.118–28.123, 28.125, 28.128, 28.132, 28.134. The time allowed for the filing of such application shall be the same for both parties and as follows:

(b) If both parties to the dispute are located and doing business within the United States, 15 full calendar days following the date of the certificate.

(c) If either of the parties is located and doing business in a foreign country, 30 full calendar days following the date of the certificate.

SEC. 28.62 *Papers in "review" application to Appeal Board.* Immediately upon the filing of an application for review, the secretary of the board which performed the original classification and/or comparison shall send the samples involved, together with a copy of the original request and the application for review to the secretary of the Appeal Board of Review Examiners at Washington, D. C.

SEC. 28.63 *Review; method of handling.* Unless the use of new samples shall be necessary, a review pursuant to sections 28.58–28.69 shall be handled on the basis of the samples of the cotton involved in the possession of the board.

SEC. 28.64 *Change of classification, only for error.* The classification of any bale shown by the original cotton class certificate shall be changed only when it shall appear that such classification was clearly erroneous.

SEC. 28.65 *Classification; confirmation on review.* If the classification of all the cotton as shown by the cotton class certificate be found to be correct, there shall be placed on the certificate a notation which shall be signed by the chairman of the board and dated, to the effect that the classification of the cotton covered by such certificate has been reviewed and determined to be as stated in such certificate. Thereupon the certificate shall be returned to the person who requested the review. If the certificate be a Form B certificate, the other party to the dispute shall be advised in writing that the original classification has been confirmed.

SEC. 28.66 *Classification change; new certificate.* If the classification of any bale of cotton as shown by the certificate shall be changed, such certificate shall be canceled and there shall be issued in lieu thereof a new certificate showing the classification of each bale as determined upon such review. There shall be incorporated in such certificate a statement to the effect that the classification of the cotton covered thereby has been reviewed and determined to be as stated in such certificate. Such certificate shall bear a new number and the date of its issuance and shall be delivered to the person who requested the review, and, if a Form B certificate, an exact copy shall be mailed to the other party to the dispute.

SEC. 28.67 *Reviews; Form B determinations.* So far as applicable sections 28.65–28.66 shall likewise apply to reviews of the comparison of samples with types in Form B determinations, and in these cases each party shall be furnished a copy of the certificates showing the decision of the Appeal Board.

SEC. 28.68 *Procedure in review.* In case a review is desired of the classification of any cotton represented in a certificate issued by a licensed classifier, the procedure shall be as provided in section 28.95.

SEC. 28.69 *Withdrawal of application for review.* Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be assessed pursuant to sections 28.118–28.134.

### Supervision of Transfers of Cotton

SEC. 28.70 *Transfer of cotton.* Whenever the owner or custodian of any cotton inspected and sampled for classification pursuant to sections 28.26–28.37, or for which he holds valid Form C certificates, desires to transfer such cotton to a different place for the purpose of having it made available for delivery upon a contract made in accordance with section 5 of the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. 1922) at the place to which it is to be removed, the procedure shall be as outlined in sections 28.70–28.75. Conformity to this procedure shall not be necessary in the case of the transfer of cotton between



different warehouses when such transfer is effected under the supervision of an exchange inspection bureau or a representative of the bureau authorized for the purpose. In such cases the exchange inspection bureau shall report the facts to the board in accordance with section 28.27.

SEC. 28.71 *Supervision of transfer.* The person who made the request for the classification, or the holder of a Form C certificate, shall file with the secretary of the board with which the classification request was filed, or which issued the certificate, or, if at a point at which there is no board, with the supervisor of inspection at that point, a written request for the supervision of such transfer. Such request shall be in such form as the Administrator shall prescribe. It shall properly identify the cotton and state the respective locations from and to which the cotton is to be transferred. If a Form C certificate for such cotton has previously been issued by the board, the holder thereof shall surrender such certificate to the board for cancellation before such transfer shall take place. No single request for supervision of transfer shall cover both cotton of which the classification has been reviewed and that of which the classification has not been reviewed; nor shall the same request cover both tenderable and untenderable cotton; and no single transfer lot shall include more than 50 bales.

SEC. 28.72 *Transfer number; tag or seal on bales examined.* As soon as practicable after the filing of the request, the chairman of the board of cotton examiners or the supervisor of inspection shall assign to it a transfer number. The owner of the cotton shall thereupon have such number legibly branded upon all bales covered by such transfer request. As soon as practicable thereafter the person filing such request shall make the cotton available to a supervisor or deputy supervisor of cotton inspection or a cotton examiner, who shall examine each bale of cotton covered by the transfer request, and shall attach to it, if found to be properly branded, a durable tag or seal provided for the purpose by the Administration. Such tag or seal shall remain the property of the United States after being so attached while the bale is under the supervision of the Department of Agriculture. No person, unless authorized by the Administration, shall remove or in any way tamper with such attached tag or seal or shall otherwise interfere with any person employed under the act in the performance of his duties, while the cotton is under supervision of the Administration.

SEC. 28.73 *Transfer certificate.* Thereupon there shall be issued to the person requesting the same a transfer certificate in form prescribed for the purpose by the Administrator, properly identifying the cotton according to such tags or seals, and the other means of identification in the possession of the Administration, showing the respective locations from which and to which the cotton is to be transferred, the classification of the cotton as previously determined, and whether or not such classification has been reviewed.

SEC. 28.74 *Surrender of transfer certificate; new certificate.* When the cotton shall have been delivered for storage at the place of its destination, the transfer certificate shall be surrendered to the chairman of the board at such place or to such other official as the Administrator shall designate for the purpose. Thereupon a supervisor of cotton inspection, or a cotton examiner, or other representative of the Administration authorized for the purpose, shall examine each bale of cotton covered by such transfer certificate. If he finds that the entire lot of cotton represented by the transfer certificate has been preserved unbroken and that the identity of the bales has been properly preserved, there shall be issued to the person requesting the same a cotton class certificate or certificates, complying with this subpart and valid for use under the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. Chapter 14), at such destination, without the reclassification of the cotton, except that whenever the exchange at the point of destination shall have put into effect a system of handling cotton and samples thereof approved for the purpose by the Administrator, under which a board of cotton examiners may place its certificate of classification directly on the storage or press receipt covering and properly identifying the cotton involved, the preservation unbroken of the entire lot represented by the transfer certificate shall not be required.

SEC. 28.75 *Supervision of transfer; when not granted.* Supervision of transfers in accordance with sections 28.70–28.75 shall not be granted, nor shall any certificate be issued, with respect to any bale which is found to be in such condition that its classification is different from that shown by the Form C certificate, unless such bale shall be reinspected and, if necessary, reclassified in accordance with this subpart.

## Licensed Classifiers

SEC. 28.76 *Applications for licenses to classify cotton.* (a) Applications for licenses to classify cotton under section 3 of the act (42 Stat. 1517; 7 U. S. C. 53) shall be made to the Administrator on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his 21st birthday and that he is an actual resident of the continental United States, (2) satisfactory evidence of his training and experience in the actual classification of cotton, (3) a statement of the standards for cotton for the classification of which a license is desired, (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him, and (5) such other information as may be required.

(c) The applicant shall furnish such additional information as the Secretary or the Administrator shall at any time find to be necessary to the consideration of his application.

SEC. 28.77 *Examination of applicant.* Each applicant for a license as a classifier and each licensed classifier shall, when requested, submit to an examination or test to show his ability to classify cotton, and each applicant who already holds a license under the act shall make available for inspection copies of the standards for classification used or to be used by him. An applicant who fails in an examination may be denied immediate reexamination.

SEC. 28.78 *Examination; scope of "limited license."* Examinations of applicants for licenses shall cover the classification of cotton in accordance with any or all of the standards listed below:

(a) The official cotton standards of the United States for grades and for all lengths of staple of American upland cotton.

(b) The official cotton standards of the United States for the grades of American upland cotton and for staple lengths not exceeding  $1\frac{1}{8}$  inches.

(c) The official cotton standards of the United States for grades and staple lengths of American Egyptian cotton.

(d) The official cotton standards of the United States for grades and staple lengths of Sea Island cotton.

Each license under the act and each identification card shall specify the standards with respect to which it is issued. Any license which merely authorizes the licensee to determine the grade of American upland cotton and staple lengths not exceeding  $1\frac{1}{8}$  inches shall be conspicuously marked "Limited License."

SEC. 28.79 *Examination of licensees.* Examination of licensees, when required, shall cover the classification of cotton with respect to any or all of the standards specified in their licenses. In addition any licensee who makes the necessary application and pays the fee specified in section 28.129 may be examined and licensed with respect to the classification of cotton according to any of the foregoing standards for which he does not already hold a license.

SEC. 28.80 *Period of license.* The period for which a license may be issued shall be from the first day of August until and including the thirty-first day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year: *Provided*, That licenses issued on and after June 1 of each year shall be for the period ending on July 31 of the following year.

SEC. 28.81 *Conditions as to licensing of classifier.* It shall be a condition of the licensing of any cotton classifier under this subpart and of the retention by him of a license, that during the active cotton season each year he shall be engaged mainly in or in connection with the classification of cotton; that all cotton classified by him shall be graded and stapled in accordance with the official cotton standards of the United States; that his sample and type comparisons, if any, shall be truly and accurately made; and that he shall not use his license or allow the same to be used for any improper purpose.

SEC. 28.82 *Fee for classifying cotton.* Whenever any classifier licensed under the act and in accordance with this subpart shall classify and/or certificate any cotton or samples in consideration of a stated fee, the fee charged shall be reasonable and shall be in accordance with a schedule previously submitted to, and approved by, the Administrator.

SEC. 28.83 *Copies of class certificates to be kept.* Each licensed classifier shall keep for a period of 1 year in a place accessible to interested persons a copy of each certificate issued by him under this subpart.



SEC. 28.84 *Records of bale classification.* Each licensed classifier shall keep, or there shall be kept for him, for a period of at least 1 year a record of the classification of each individual bale of cotton classified by him: *Provided*, That this requirement shall apply only to cotton actually owned, received, or handled by the person for whom such service is performed. *Provided further*, That where any licensed classifier shall serve on a committee in the classification of any cotton, such record shall show the classification of such cotton and the participation of each licensed classifier engaged in such classification. Each licensed classifier shall permit any officer or agent of the Administration authorized by the Administrator for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and this subpart.

SEC. 28.85 *Reports to be made on forms furnished or otherwise.* Each licensed classifier shall from time to time when requested by the Production and Marketing Administration make reports on forms furnished for the purpose by the Production and Marketing Administration, or otherwise, bearing upon his activities as such licensed classifier.

SEC. 28.86 *Information of violations.* Every person licensed under the act shall immediately furnish the Administrator any information which comes to the knowledge of such person tending to show that any provision of the act or this subpart has been violated.

SEC. 28.87 *Suspension of license.* Pending investigation the Secretary may, whenever he deems necessary, suspend the license of a licensed classifier temporarily without hearing. Whenever a licensed classifier shall voluntarily surrender his license for suspension or cancellation the same may be suspended or canceled by the Secretary or the Administrator without a hearing. The Secretary or the Administrator may, after opportunity for hearing when possible has been afforded in the manner prescribed in this section, suspend or cancel a license issued to a licensed classifier when such licensed classifier (a) has ceased to perform services as such classifier, (b) has knowingly or carelessly classified cotton improperly, (c) has violated or evaded any provisions of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of such licensed classifier. Before the license of any licensed classifier is finally suspended or revoked pursuant to section 3 of the act (42 Stat. 1517; 7 U. S. C. 53), such licensed classifier shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be accorded if requested in accordance with section 28.89.

SEC. 28.88 *Suspended license to be returned to Administration.* If a license issued to a licensed classifier is suspended, revoked, or canceled, such license shall be returned to the Administration. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed classifier to whom it was originally issued.

SEC. 28.89 *Hearings granted licensees.* For the purpose of a hearing under the act or sections 28.76-28.96, the licensee involved shall be allowed a reasonable time, fixed by the Secretary or by an official of the Department of Agriculture designated by him for the purpose, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before and at the time and place fixed by the Secretary or an official of the Department of Agriculture designated by him for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary or an official of the Department of Agriculture authorized by the Secretary. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all

the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

SEC. 28.90 *Lost license may be duplicated.* Upon satisfactory proof of the loss or destruction of a license issued to a licensed classifier, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

SEC. 28.91 *Classifier; misrepresentation.* No person shall in any way represent himself to be a classifier licensed under the act unless he holds an unsuspended, unrevoked, and uncanceled license issued under the act.

SEC. 28.92 *Class certificate; form.* Each class certificate issued under the act by a licensed classifier shall be in a form approved for the purpose by the Administrator and shall embody within its written or printed terms:

- (a) The caption "Licensed cotton classifier's certificate."
- (b) The serial number assigned to it.
- (c) Whether it is an original, a duplicate, or other copy.
- (d) The date and place of issuance.
- (e) That the certificate is issued by a classifier licensed under the United States Cotton Standards Act and this subpart.
- (f) A list of the standards with respect to which the classifier is licensed.
- (g) The exact location of the cotton at the time of classification.
- (h) A statement in accordance with the facts in each case, either (1) that the classifier knows the samples upon which his classification is based to be true and correct samples of the cotton involved; or (2) that the samples were drawn by a sampler licensed under the United States Cotton Standards Act, as amended, or under the United States Warehouse Act; or (3) in other cases in which the classifier does not know that the samples are truly representative of the cotton involved, a statement to the effect that the certificate covers the grade or other class of such samples only, submitted for classification and represented as having been drawn from the bales described therein, in which case the name and address of the person who submitted the samples shall be stated, and the certificate shall carry the notation "Special sample certificate."
- (i) The identification of each bale of cotton by the tag number or mark by which the bale was identified at the time the sample was taken.
- (j) The grade, length of staple, or other class of each bale or sample of cotton covered thereby.
- (k) The signature of the licensed classifier.

In addition, the class certificate may include any other matter not inconsistent with the act or this subpart.

SEC. 28.93 *Certificate by licensed classifier not final.* A certificate issued by a licensed classifier shall in no case be deemed a final certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54). The certificate of a board covering any cotton represented in a licensed cotton classifier's certificate shall at once invalidate and supersede a licensed classifier's certificate as to such classification.

SEC. 28.94 *Licensed classifier's certificate; when null and void.* The shipment, sale, or consignment of any cotton or the sale or hypothecation of any warehouse receipts, compress receipts, or bills of lading representing any cotton covered by a licensed classifier's certificate shall render such certificate null and void unless the certificate be attached to the warehouse receipts, bills of lading, or invoices by which the cotton is moved or sold or by which title to the cotton is passed or hypothecated.

SEC. 28.95 *Review of classification.* In case a review is desired of the classification of any cotton represented in a valid certificate issued by a licensed classifier as provided in section 28.92, the holder of such certificate shall surrender the same, together with samples of the cotton, to a board and receive in its stead a certificate signed by the chairman of such board. The certificate of the board issued in lieu of the licensed classifier's certificate in accordance with this section shall be subject to review by the Appeal Board of Review Examiners, provided a review would have been granted if the classification had been performed originally by a board.

SEC. 28.96 *Inconsistent classifications.* In the event any licensed classifier shall find that any cotton has been inconsistently classified by two or more licensed



classifiers, he shall thereupon bring the matter to the attention of the Board of Supervising Cotton Examiners, which board shall review all the facts obtainable and, if possible, determine the classification of the cotton. The board may examine or requisition such samples of the cotton in question as may be in the hands of such licensed classifiers, or, in the discretion of the chairman may request that new samples be drawn, if obtainable. In the event samples are not obtainable, the board may, if in its judgment sufficient facts are available, decide which of the inconsistent classifications shall be sustained. The records of the licensed cotton classifiers concerned shall be corrected to show the findings of the board.

### Licensed Samplers

SEC. 28.97 *Applications for licenses to sample cotton.* (a) Applications for licenses to sample cotton shall be made to the Administrator on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his 21st birthday and that he is an actual resident of the continental United States, (2) satisfactory evidence of his experience in handling and sampling cotton, (3) a statement by the applicant that he agrees to comply with and abide by the terms of the law and of this subpart so far as they may relate to him, and with instructions issued to him from time to time governing the sampling of cotton, and (4) such other information as may be required.

SEC. 28.98 *Bond to be furnished by applicant.* (a) Each applicant for a license to sample cotton shall, as a condition to the granting thereof, execute and file with the Administrator a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act, as amended, and this subpart. Said bond shall be in such form and amount, not less than \$1,000, and shall have such surety or sureties as shall be approved by the Administrator, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cotton sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(b) If the Administrator finds that the existence of conditions warrants such action, there shall be added to the amount previously required under paragraph (a) of this section such additional amount as he shall deem necessary.

SEC. 28.99 *Period of license.* The period for which a license may be issued under this subpart shall be from the first day of August until and including the thirty-first day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year: *Provided*, That licenses or renewals issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

SEC. 28.100 *New bond required for license renewal.* It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Administrator or his authorized representative: *Provided*, That in the discretion of the Administrator or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with sections 28.98-28.101 may be filed in lieu of a new bond.

SEC. 28.101 *Bond to be approved by Administrator.* No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of sections 28.98-28.100 until it has been approved by the Administrator or his authorized representative.

SEC. 28.102 *Examination; sampler.* Each applicant for a license as a sampler and each licensed sampler, whenever requested by an authorized agent of the Administration, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Administration any information requested at any time in regard to his sampling of cotton.

SEC. 28.103 *License shall be posted.* Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Administration.

SEC. 28.104 *No discrimination in work of sampler.* Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cotton if the same be made available to him under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity, excepting only the services required of licensed classifiers under the act.

SEC. 28.105 *Certificate of sampler; form.* Each licensed sampler shall be provided with seals and with tags and samplers' certificates approved or furnished by the Administrator or his representative for identifying the samples of cotton and for certifying the condition of the cotton represented by such samples. There shall be clearly written or printed on the face of each certificate (a) the number thereof; (b) a suitable caption; (c) the warehouse or other location of the cotton involved; (d) the identification number of the bale from which the sample was drawn; (e) the date on which the sample was drawn, and (f) a statement indicating that the sample was drawn by a sampler licensed in accordance with the United States Cotton Standards Act, as amended. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Administrator.

SEC. 28.106 *Drawing of sample; weight.* Each official sample taken from a bale of cotton by a licensed sampler shall be drawn, prepared, and identified in such manner as may be required by the Administrator. Each bale shall be sampled from both the top side and the bottom side, not less than 3 ounces of cotton to be drawn from each side. The head of the bale shall be properly inspected and any conditions not fully indicated by the sample shall be specified by the licensed sampler in the certificate accompanying such sample.

SEC. 28.107 *Handling of samples.* Each licensed sampler shall carefully handle each official sample in such manner as not to cause loss of sand or other foreign material therefrom or any change otherwise in its representative character.

SEC. 28.108 *Examination of books of sampler.* Each licensed sampler shall permit any authorized officer or agent of the Administration to inspect at any time his books, papers, records, and accounts relating to the performance of his duties under sections 28.97-28.114.

SEC. 28.109 *Suspension of sampler's license.* Pending investigation, the Secretary may, whenever he deems necessary, suspend the license of a sampler temporarily without a hearing. Upon a written request and a satisfactory statement of reasons therefor submitted by the licensee or when the licensee has ceased to perform the services for which licensed, the Secretary or the Administrator may, without a hearing, suspend or revoke the license issued to such licensee. The Secretary may, after opportunity for hearing, when possible, has been afforded in the manner prescribed herein, suspend or revoke a license issued to a sampler when such licensee has, in any manner, become incompetent or incapacitated to perform his duties as such licensee or has ceased to perform services as a cotton sampler or has violated or evaded any provision of the act, as amended, or this regulation so far as the same may relate to him. Before the license of any sampler is finally suspended or revoked for failure of the licensee to comply with the act, as amended, or sections 28.102-28.109, such licensee shall be furnished by the Secretary or his designated representative a statement specifying the charges and shall be allowed a reasonable time in which he may answer the same in writing and/or apply for a hearing, an opportunity for which shall be afforded in accordance with section 28.89.

SEC. 28.110 *Return of suspended license to Administration.* In case a license issued to a sampler is suspended or revoked by the Secretary or by the Administrator, such license shall be returned to the Administration. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 28.103.

SEC. 28.111 *Lost license may be duplicated.* Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder a new license may be issued under the same or a new number.



SEC. 28.112 *Reports of licensed sampler.* Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Administration bearing upon his activities as such licensee.

SEC. 28.113 *Sampler; misrepresentation.* No person shall in any way represent himself to be a sampler licensed under the act, as amended, unless he holds an unsuspended and unrevoked license issued thereunder.

SEC. 28.114 *Condition as to issuance of license.* It shall be a condition of the issuance of a license to any cotton sampler under section 28.97 that the licensee shall not draw any official sample from any cotton in which he or his employer is financially interested.

### Practical Forms of Official Cotton Standards

SEC. 28.115 *Practical forms of official cotton standards.* (a) Practical forms of any of the official cotton standards of the United States enumerated in this paragraph, each certified under the seal of the United States Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department thereunto duly authorized by him, and in the case of the standards for grade and color accompanied by photographs representing the cotton in such practical forms on the date of certification, will be furnished to any person requesting the same, upon prepayment of the cost thereof as determined by the Secretary, subject to the other conditions of this section.

Standards for grades of American upland cotton as follows:

- No. 2, or Strict Good Middling.
- No. 3, or Good Middling.
- No. 4, or Strict Middling.
- No. 5, or Middling.
- No. 6, or Strict Low Middling.
- No. 7, or Low Middling.
- No. 8, or Strict Good Ordinary.
- No. 9, or Good Ordinary.
- No. 3, Tinged, or Good Middling Tinged.
- No. 4, Tinged, or Strict Middling Tinged.
- No. 5, Tinged, or Middling Tinged.
- No. 6, Tinged, or Strict Low Middling Tinged.
- No. 7, Tinged, or Low Middling Tinged.

Standards for length of staple, as follows:

#### AMERICAN UPLAND COTTON

$\frac{3}{4}$ inch.	$1\frac{1}{32}$ inches.	$1\frac{1}{4}$ inches.
$\frac{13}{16}$ inch.	$1\frac{1}{16}$ inches.	$1\frac{9}{32}$ inches.
$\frac{7}{8}$ inch.	$1\frac{3}{32}$ inches.	$1\frac{5}{16}$ inches.
$2\frac{9}{32}$ inch.	$1\frac{1}{8}$ inches.	$1\frac{11}{32}$ inches.
$1\frac{5}{16}$ inch.	$1\frac{5}{32}$ inches.	$1\frac{3}{8}$ inches.
$1\frac{31}{32}$ inch.	$1\frac{3}{16}$ inches.	$1\frac{1}{2}$ inches.
1 inch.	$1\frac{7}{32}$ inches.	

#### AMERICAN EGYPTIAN COTTON

$1\frac{3}{8}$ inches.	$1\frac{1}{2}$ inches.	$1\frac{5}{8}$ inches.
$1\frac{7}{16}$ inches.	$1\frac{9}{16}$ inches.	$1\frac{3}{4}$ inches.

Tentative standards for preparation of American upland long-staple cotton:

Strict Middling A Preparation.	Middling C Preparation.
Strict Middling B Preparation.	Strict Low Middling A Preparation.
Strict Middling C Preparation.	Strict Low Middling B Preparation.
Middling A Preparation.	Strict Low Middling C Preparation.
Middling B Preparation.	

Standards for grades of American Egyptian Pima cotton:

Grade No. 1.	Grade No. $2\frac{1}{2}$ .	Grade No. 4.
Grade No. $1\frac{1}{2}$ .	Grade No. 3.	Grade No. $4\frac{1}{2}$ .
Grade No. 2.	Grade No. $3\frac{1}{2}$ .	Grade No. 5.

## Standards for grades of American Egyptian SXP cotton:

Grade No. 1.	Grade No. 2½.	Grade No. 4.
Grade No. 1½.	Grade No. 3.	Grade No. 4½.
Grade No. 2.	Grade No. 3½.	Grade No. 5.

## Standards for grades of Sea Island cotton, as follows:

Grade No. 1.	Grade No. 3.	Grade No. 5.
Grade No. 2.	Grade No. 4.	Grade No. 6.

## Standards for lengths of staple of Sea Island cotton, as follows:

1½ inches.	1⅝ inches.	1¾ inches.
1⅞ inches.		

(b) Each application for practical forms of the official cotton standards shall be upon a blank furnished or approved by the Administration, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Treasurer of the United States," in an amount sufficient to cover the cost of the forms requested, and shall incorporate the following conditions:

(1) That no practical form of any of the official cotton standards or of the tentative standards for the preparation of long-staple cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 18 months following the date of its certification: *Provided*, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department of Agriculture authorized by the Administrator.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of any type or sample of said practical form accompanying the same, or both, may be canceled if it be found, upon such inspection, either that any of said forms for any reason misrepresents the official cotton standards or that any such photograph has been altered or mutilated.

SEC. 28.116 *Universal cotton standards.* Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than the United States, the name of such association or exchange may be shown on the outside of the box or container.

SEC. 28.117 *Containers of "original" cotton standards; where kept; reserve sets.* (a) The containers of the original universal standards and other official cotton standards of the United States, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, wrapped, and sealed with wax seals. When so marked, wrapped, and sealed they shall be deposited in a suitable vault or in a steel safe or safes, which safe or safes shall be kept sealed with an imprinted seal. The dies used to seal the first reserve set of the universal standards shall be deposited in the Treasury of the United States subject to the order of the Secretary of Agriculture; those used to seal the other official cotton standards of the United States shall remain in the custody of the Administrator. Such safes shall be sealed in the presence of the Solicitor of the Department and the Administrator, or of persons temporarily acting in their stead, and shall thereafter be opened only in the presence of the same and upon written order of the Secretary or of the person acting in his stead.

(b) As soon as practicable after the second Monday in March 1939, and after the second Monday in March of each third year thereafter there shall be prepared two full sets of practical forms or copies of the universal standards for grades and colors of American upland cotton, which shall be known as "reserve sets" and which, upon the certification and recommendation of qualified experts, shall be certified by the Secretary as true copies of the original standards as and when established. Such reserve sets shall be enclosed in metal-lined cases, likewise sealed in the presence of the Solicitor of the Department and the Administrator, or of persons temporarily acting in their stead. One such set, to be known as the "first reserve set," shall then be delivered to agents of the Treasury



Department of the United States to be deposited in the United States Treasury, and the other, to be known as the "second reserve set," shall be deposited in the vaults of the Administration in the immediate control and custody of the Administrator. Such reserve sets shall remain so deposited until such time as they shall be required for examination, reproduction, and use, as set forth in paragraph (c) of this section. When so required they shall be withdrawn only upon the order of the Secretary or of the person temporarily acting in his stead. The seals upon the cases and containers of the practical forms shall be broken only in the presence of the Solicitor of the Department and the Administrator, or persons temporarily acting in their stead, and experts qualified in the classification of American upland cotton authorized to be present.

(c) As soon as practicable after the opening, as provided in paragraph (b), of the first reserve set, two new reserve sets shall be prepared by comparison with the first reserve set, which shall be taken to represent so far as possible the original standards as and when established, and which shall, in turn, be numbered, incased, sealed, and stored in the manner prescribed in paragraph (b). The first reserve set of the preceding 3-year period shall then be again sealed and shall remain in the custody of the Administrator as a permanent record. If, upon the opening and examination of the first reserve set as herein provided, it shall appear that such set has undergone any substantial change, the second reserve set shall, for the purposes of this paragraph, be used in its stead. If the second reserve set is not so needed, it shall be retained by the Administration as a permanent record.

### Fees and Costs

SEC. 28.118 *Fees and costs; payment.* All fees for services of classification, comparison, certification, or review by a board of examiners shall be paid at the time of filing the request for the service desired, except that in the discretion of the Administrator bills may be delivered to persons from whom payment for fees or expenses or for the supervision of transfers may become due. Such bills shall be rendered as soon as practicable after the 15th and the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the chairman of the board or the supervisor of inspection, any bill may be rendered at an earlier date for any fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

SEC. 28.119 *Amounts of fees for classification; exemption.* (a) For the classification and certification of any cotton or samples, whether informal or otherwise, or for the review of a licensed cotton classifier's certificate, the person requesting the classification or review shall pay a fee, as follows, except as provided in paragraph (c) of this section:

(1) If the classification is with respect to grade only, at the rate of 15 cents a bale.

(2) If the classification is with respect to staple only, at the rate of 15 cents a bale.

(3) If the classification is with respect to any other single quality, at the rate of 15 cents a bale.

(4) For all Form C determinations and in other cases where the classification is with respect to two or more of the qualities specified in (1), (2) or (3), at the rate of 25 cents a bale.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed, except that no charge shall be made for the classification of a type composed of less than 10 samples.

(c) The fees provided for in paragraph (a) of this section may be waived, in whole or in part, as to the classification and certification and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency; and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any govern-

mental agency shall be disposed of as required by such agency. To demonstrate classification according to the official cotton standards, the informal classification of samples and the issuance without charge of Form A memorandums evidencing such classification may be authorized for limited periods of time in designated localities, but such samples shall be disposed of as provided in section 28.25 hereof unless claimed and removed by the person submitting the same at or about the time of classification.

SEC. 28.120 *Fee for new certificate.* For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 25 cents when the number of bales covered by the new certificate is 10 or less, or a fee of 50 cents when the number of bales covered by such certificate is more than 10. In cases where a part of a lot of cotton represented by any one certificate is removed from the certificated stock of any market and the bales so removed are canceled from such certificate at the request of the holder thereof, in accordance with section 28.55, no charge shall be made for such cancellation unless the holder requests the return of the official samples representing the bales so canceled, in which event a service charge of 10 cents will be assessed for each certificate involved.

SEC. 28.121 *Fees for review classification or comparison.* For any review of the classification or comparison of any cotton, the fee shall be 25 cents per bale where both grade and staple length are involved and 20 cents where only grade or staple length is involved.

SEC. 28.122 *When no fee collected for new certificate.* No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form applicable to outstanding certificates or without an application therefor.

SEC. 28.123 *Fee when request for classification is withdrawn.* When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the fee prescribed by sections 28.119, 28.121 as to any such cotton already classified.

SEC. 28.124 *Fee at place where board or supervisor not located.* Whenever the supervision of the inspection and sampling or of the transfer of any cotton shall be performed at a place other than that where a board or supervisor of cotton inspection is regularly located, the person making request for the classification or the supervision of the transfer of the cotton shall pay, in addition to the costs prescribed in sections 28.119–28.134, 5 cents for each bale involved.

SEC. 28.125 *Expenses to be borne by party requesting classification.* The expense of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room of the board or other place specifically designated for the purpose by the Administrator or by the chairman of such board, shall be borne by the party requesting the classification.

SEC. 28.126 *Fee for transfer supervision.* For the supervision of the transfer of cotton in accordance with sections 28.70–28.75, including such new certificates incidental thereto as may be necessary for the delivery of such cotton upon a contract made in accordance with section 5 of the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. 1922), without its reclassification, the applicant for such transfer supervision shall pay a fee of 30 cents per bale.

SEC. 28.127 *Fee; substitution for Form C certificate.* Whenever the holder of a Form C certificate covering cotton located at a place which has been designated as a point of delivery on futures contracts shall, without change in the place of storage of such cotton, surrender such certificate and request in lieu thereof a certificate or certificates valid for use in the delivery of such cotton upon a contract under section 5 of the United States Cotton Futures Act (39 Stat. 476; 26 U. S. C. 1922), he shall pay a service fee of 10 cents for each bale involved.

SEC. 28.128 *Advance deposits.* If requested by the secretary of the board or supervisor of inspection with whom a request is required to be filed or by the Administrator, the person from whom any payment under sections 28.118–28.131, may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

SEC. 28.129 *Fee for examination of applicant for license; renewals.* For the examination of an applicant for a license to classify cotton in accordance with



sections 28.76–28.79, the fee shall be \$10, but no additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. For each renewal of a classifier's license the fee shall be \$5. For the issuance of a cotton sampler's license under sections 28.97–28.114, the applicant shall pay a fee of \$5, and for each renewal a fee of \$3.

SEC. 28.130 *Cost of practical forms of official standards.* (a) The cost of any of the universal cotton standards of the United States for grades of American upland cotton and of practical forms for grades of Sea Island shall be at the rate of \$5 each, f. o. b. Washington, D. C., for shipments within the continental United States, and \$6.25 each, delivered to destination, for shipments outside the continental United States. The cost of practical forms of any of the official cotton standards of the United States for grades of American Egyptian Pima and SXP cottons shall be at the rate of \$3 each, f. o. b. Washington, D. C., for shipments within the continental United States, and \$4 each, delivered to destination, for shipments outside the continental United States.

(b) The costs specified in paragraph (a) of this section shall likewise apply in cases where new samples are furnished in replacement of old samples in any box of the practical forms returned to the Department for the purpose, except that when the number of new samples so furnished is five or less in one box the cost shall be at the rate of 40 cents for each sample.

(c) The cost of any of the practical forms of the official cotton standards of the United States for length of staple enumerated in section 28.115, and of those for the length of staple of Sea Island cotton of the lengths  $1\frac{1}{2}$ ,  $1\frac{9}{16}$ ,  $1\frac{5}{8}$ , and  $1\frac{3}{4}$  inches shall be at the rate of \$1.00 each, f. o. b. Washington, D. C., for shipments within the continental United States, and \$1.25 each delivered to destination, for shipments outside the continental United States.

SEC. 28.131 *Cost of practical forms of tentative standards.* Practical forms of the tentative standards for preparation of American upland long-staple cotton will be furnished to any person upon prepayment of the costs thereof, which shall be at the rate of \$3 each, f. o. b. Washington, D. C., for shipments within the continental United States, and \$4 each, delivered to destination, for shipment outside of the continental United States.

SEC. 28.132 *Payments; procedure.* Any payment or advance deposit under sections 28.118–28.131 shall be by certified check or by draft or post office or express money order, payable to the order of the "Treasurer of the United States," and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

SEC. 28.133 *Cost of practical forms hereafter established.* The cost of practical forms of the universal standards or other official cotton standards which may hereafter be established shall be such as the Secretary of Agriculture may determine.

SEC. 28.134 *No voiding or modifying claims for payment.* Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

SEC. 28.135 *Loaning of forms and exhibits.* In the discretion of the Administrator, limited numbers of copies of the practical forms of any of the official standards, and specially prepared exhibits illustrating any of such standards, may be loaned to educational and other institutions for demonstrational purposes.

### American Cotton Linters

SEC. 28.136 *Samples submitted.* Insofar as applicable, and not inconsistent with sections 28.136–28.146, the provisions of the foregoing subpart relating to the organization and functions of boards of cotton examiners; requests for classification and comparison; submission and disposition of samples in Form A and Form B determinations and the submission of cotton, supervision and sampling in Form C determinations; classification; sample and type comparison; certificates and memoranda, Forms A, B, and C, shall likewise apply to the organization and functions of boards of cotton linters examiners and to the submission and disposition of samples of linters in Form A and Form B determinations and the submission of bales of linters in Form C determinations; the classification of linters; sample and type comparison of linters; and certificates and memoranda evidencing the classification and comparison of linters:

*Provided*, That each sample of American cotton linters submitted to a board of cotton linters examiners for classification and/or comparison shall weigh not less than  $\frac{1}{2}$  pound, shall be wrapped separately, and shall contain a coupon or tag by which the identity of the bale from which it is drawn may be determined; that the head of the bale shall be properly inspected, and any conditions not fully indicated by the samples shall be specified by the inspector or the sampler of the linters in a written memorandum to the board which shall accompany the samples; and such samples shall be drawn in the following manner:

(a) *Condenser system linters*. Three layers shall be drawn from each head of each bale, each layer to be approximately 6 by 8 inches in size. The six layers in each such sample shall be considered in equal proportions as representative of the variations in quality in the bale from which drawn.

(b) *Flue system linters*. One sample shall be drawn from the top side of each bale and one from the bottom side (the surface layer shall not be included), which said samples, wrapped together and weighing not less than  $\frac{1}{2}$  pound, shall constitute one sample for the purposes of sections 28.136-28.146.

SEC. 28.137 *Boards of cotton linters examiners*. There shall be located at Washington, D. C., and, when necessary in the opinion of the Administrator, at any other point that he shall designate for the purpose, a board of cotton linters examiners. The members of all boards and the chairman of each shall be designated for the purpose by the Administrator.

SEC. 28.138 *Requests for classification and comparison*. For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which one of the following forms of service is desired:

(a) *Form A determination*. The informal classification or comparison, or both, of samples submitted for the purpose. Such informal classification or comparison shall be evidenced by a Form A memorandum which shall not be subject to review or repeal.

(b) *Form B determination*. The formal classification or comparison, or both, of samples submitted by mutual agreement of two or more parties to a dispute. The classification or comparison in such cases shall be evidenced by a Form B certificate which shall be subject to review as provided in section 28.140.

(c) *Form C determination*. The formal classification of bales of linters, to be sampled under the supervision of a supervisor of inspection. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in section 28.140.

SEC. 28.139 *Classification; filing of requests; variation*. All requests for classification in the United States shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., or with the supervisor of inspection at the place where the linters is located.

Where in the classification of any bale of linters the variation in quality and/or color is found to be less than that embraced in any single grade, or greater than that of any standard grade but not greater than that of two adjacent grades, such linters shall be described in appropriate terms indicating the degree of variation in quality and/or color.

SEC. 28.140 *Reviews*. One review only of the classification or comparison of any linters, evidenced by a Form B certificate or a Form C certificate, may be had in general conformity with sections 28.58-28.69, which such review shall be handled by the Board of Cotton Linters Examiners at Washington, D. C.

SEC. 28.141 *Licensed classifiers*. Subject, in general, to the terms and conditions of sections 28.76-28.96, any person may, upon presentation of evidence of competency, be licensed to grade or classify linters, and to certificate the grade or other class thereof in accordance with the official standards of the United States for American cotton linters.

SEC. 28.142 *Fees and costs*. The provisions of sections 28.118-28.135 relating to fees and costs shall, so far as applicable, apply to services performed with respect to linters, but the fee for the classification with respect to grade, character, and color, or for the comparison of any linters shall be at the rate of 20 cents for each bale or sample involved.

SEC. 28.143 *Fee for review*. For the review of the classification or comparison of any linters the applicant shall pay a fee of 20 cents per bale.

SEC. 28.144 *Fee; examination of applicant for license; renewals*. For the examination of an applicant for a license to classify linters the fee shall be \$10,



but no additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. For each renewal of such a license the fee shall be \$5.

SEC. 28.145 *Cost of practical forms; period effective.* Practical forms of the official standards of the United States for American cotton linters will be furnished to any person, subject to the general terms and conditions specified in section 28.115 with respect to the practical forms of the official cotton standards of the United States, and upon prepayment of the costs thereof, which shall be at the rate of \$5 each, f. o. b. Washington, D. C., for shipments within the continental United States, and \$6.25 each, delivered to destination, for shipments outside the continental United States: *Provided*, That no practical form of any of the official standards of the United States for American cotton linters hereafter issued shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification.

SEC. 28.146 *Expositor types.* Three expositor types, illustrating the staples and characters of linters as embraced in each of the grades 1 to 6, inclusive, sections 28.201-28.206, of the Official Standards of the United States for American Cotton Linters, will be supplied to each purchaser of copies of said official standards. To the extent that facilities permit, additional expositor types will be furnished to any such purchaser of copies of said standards, or to any other person, at the rate of \$1 each (\$3 for each grade), f. o. b. Washington, D. C., for shipment within the continental United States, and \$1.25 each (\$3.75 for each grade), delivered to destination, for shipment outside the continental United States.

### Adjustment of Contract Disputes

SEC. 28.147 *Disputes involving contracts for shipment of cotton from United States.* When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Administrator, such committee may be constituted for the purposes of this act a Board of the Department of Agriculture and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved in a dispute between a party in the United States and a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department of Agriculture.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or bylaws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

SEC. 28.148 *Procedure.* The manner of procedure in submitting and handling samples, in classification, and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, bylaws, and rules of the association or exchange.

### Publications

SEC. 28.149 *Publication media.* Publications under the act and this subpart may be made in service and regulatory announcements of the Administration and by such other means as the Administrator shall from time to time designate for the purpose.

## APPENDIX 1

## UNITED STATES COTTON STANDARDS ACT

[Approved Mar. 4, 1923, (42 Stat. 1517)]

AN ACT To establish and promote the use of the official cotton standards of the United States in interstate and foreign commerce; to prevent deception therein, and provide for the proper application of such standards; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this act shall be known by the short title of "United States Cotton Standards Act."

SEC. 2. That it shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after this act shall become effective, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after this act shall become effective, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after this act shall become effective, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this act by a name, description, or designation, or any system of names, description, or designation not used in said standards: *Provided*, That nothing herein shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards.

SEC. 3. That the Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with the official cotton standards of the United States. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this act or the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing.

SEC. 4. That any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples.

SEC. 5. That the Secretary of Agriculture may cause to be collected such charges as he may find to be reasonable for licenses issued to classifiers of cotton under section 3 and for determinations made under section 4 of this act, and the amounts so collected shall be used by the Secretary of Agriculture in paying expenses of the Department of Agriculture connected therewith.

SEC. 6 (a). That the Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes, which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than 1 year after the date of such order: *Provided*, That the official cotton standards established, effective August 1, 1923, under the United



States Cotton Futures Act shall be at the same time the official cotton standards for the purpose of this act unless and until changed or replaced under this act. Whenever any standard or change or replacement thereof shall become effective under this act, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act and supersede any inconsistent standard established under said act. Whenever the official cotton standards of the United States established under this act shall be represented by practical forms, the Department of Agriculture shall furnish copies thereof, upon request to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorized representatives of the Department of Agriculture, as he may find to be necessary to the proper application of the official cotton standards of the United States. Any moneys received from or in connection with the sale of cotton purchased for the preparation of such copies and condemned as unsuitable for such use or with the sale of such copies as may be expended for the purchase of other cotton for such use.

(b) The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification; (2) the arbitration or settlement of disputes with respect thereto; and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements.<sup>2</sup>

SEC. 7. That in order to carry out the provisions of this act, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 4 of this act.

SEC. 8. That it shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this act; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under this act; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned.

SEC. 9. That (a) any person who shall knowingly violate any provision of section 2 or 8 of this act, or (b) any person licensed under this act who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this act in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to influence improperly any person employed under this act in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding \$1,000, or imprisonment not exceeding six months, or both, in the discretion of the court.

SEC. 10. That for the purposes of this act the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publication to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

SEC. 11. That wherever used in this act, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a part-

<sup>2</sup> This paragraph inserted by amendment approved September 21, 1944, 58 Stat. 734.

nership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters. When construing and enforcing the provisions of this act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person.

SEC. 12. That there are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this act; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this act in the District of Columbia and elsewhere.

SEC. 13. That if any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 14. That this act shall become effective on and after August 1, 1923.

Approved, March 4, 1923.

## APPENDIX 2

### PUBLIC RESOLUTION NO. 73, 72D CONGRESS

[47 Stat. L. 1621]

#### JOINT RESOLUTION

To authorize and direct the Secretary of Agriculture to provide additional facilities for the classification of cotton under the United States Cotton Standards Act

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Agriculture be requested to extend to cotton growers facilities for the classification of cotton authorized in the United States Cotton Standards Act of March 4, 1923 (42 Stat. L. 1517), with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures (Standards) Act.

SEC. 2. Further to carry out the purposes of the said United States Cotton Standards Act, the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of said act or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued hereunder, or may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of Agriculture or by licensed cotton classifiers.

Approved March 4, 1933.





